

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

STEVEN NEAL HENSLEY,

Plaintiff,

v.

**INTERSTATE MEAT DISTRIBUTION,
INC.,**

Defendant.

Case No. 3:19-cv-533-YY

ORDER

Michael H. Simon, District Judge.

U.S. Magistrate Judge Youlee Yim You issued her Findings and Recommendation in this case on January 10, 2020. ECF 24. Judge You recommended that the Court grant Defendant's Motion to Dismiss (ECF 18) and dismiss this case without prejudice, based on improper service. Judge You noted that Plaintiff did not respond to Defendant's Motion to Dismiss. Plaintiff also failed to file any objection to Judge You's Findings and Recommendation.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge's findings and recommendations,

“the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

In addition, for those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

The Court has reviewed *de novo* the Findings and Recommendation of U.S. Magistrate Judge You and adopts them. The Court grants Defendant’s Motion to Dismiss (ECF 18) and dismisses this case without prejudice.

IT IS SO ORDERED.

DATED this 6th day of April, 2020.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge